



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
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RBI/FED/2015-16/14

FED Master Direction No. 19/2015-16

January 1, 2016

To,

All Authorised Dealer Category – I banks and Authorised banks

Madam / Dear Sir,

Master Direction - Miscellaneous

Reserve Bank of India has issued Master Directions consolidating relevant A.P (DIR Series) Circulars issued so far within the ambit of the relevant regulations, amended up to date. The circulars/ instructions have been grouped into the Master Directions on the basis of the classes of transactions they pertain to. Instructions which do not figure in any of the other Master Directions have been compiled under this Master Direction. The List of the Circulars is given as an appendix.

2. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/ constituents with a view to implementing the regulations framed.

3. It may be noted that, whenever necessary, Reserve Bank shall issue directions to Authorised Persons through A.P. (DIR Series) Circulars in regard to any change in the Regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents. The Master Direction issued herewith shall be amended suitably simultaneously.

Yours faithfully,

(B P Kanungo)
Principal Chief General Manager

Master Direction - Miscellaneous

1) Remittances to non-residents – Deduction of Tax at Source

On the Central Board of Direct Taxes (CBDT) revising the existing instructions to be followed while allowing remittances to the non-residents, Reserve Bank of India has clarified that it will not be issuing instructions under Foreign Exchange Management Act, 1999 (FEMA), clarifying tax issues. The Authorised Dealers are required to comply with the requirement of the tax laws, as applicable.

2) Repatriation of income and sale proceeds of assets held abroad by NRIs who have returned to India for permanent settlement and repatriation of income *and* sale proceeds of assets acquired abroad through remittances under Liberalised Remittance Scheme – Clarification

(a) in terms of sub-section 4 of Section (6) of FEMA, a person resident in India is free to hold, own, transfer or **invest** in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

(b) Sub-section 4 of Section (6) of FEMA covers the following transactions:

- i. Foreign currency accounts opened and maintained by such a person when he was resident outside India;
- ii. Income earned through employment or business or vocation outside India taken up or commenced while such person was resident outside India, or from investments made while such person was resident outside India, or from gift or inheritance received while such a person was resident outside India;
- iii. Foreign exchange including any income arising therefrom, and conversion or replacement or accrual to the same, held outside India by a person resident in India acquired by way of inheritance from a person resident outside India.
- iv. A person resident in India may freely utilise all their eligible assets abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments or to make any fresh investments abroad without approval of Reserve Bank, provided the cost of such investments and/ or any subsequent payments received therefor are met

exclusively out of funds forming part of eligible assets held by them and the transaction is not in contravention to extant FEMA provisions.

(b) an investor can retain and reinvest the income earned on investments made under the Liberalised Remittance Scheme.

3) Resident bank account maintained by residents in India - Joint holder - liberalization

Individuals resident in India are permitted to include non-resident Indian (NRI) close relative (s) (NRI as defined in regulation 2(vi) of [Notification No FEMA 5/ 2000-RB dated May 3, 2000](#), as amended from time to time and relative as defined in Section 6 of the Companies Act, 1956 as a joint holder(s) in their resident savings bank accounts on “Either or Survivor” basis subject to the following conditions:

- a. Such account will be treated as resident bank account for all purposes and all regulations applicable to a resident bank account shall be applicable.
- b. Cheques, instruments, remittances, cash, card or any other proceeds belonging to the NRI close relative shall not be eligible for credit to this account.
- c. The NRI close relative shall operate such account only for and on behalf of the resident for domestic payment and not for creating any beneficial interest for himself.
- d. Where the NRI close relative becomes a joint holder with more than one resident in such account, such NRI close relative should be the close relative of all the resident bank account holders.
- e. Where due to any eventuality, the non-resident account holder becomes the survivor of such an account, it shall be categorized as Non-Resident Ordinary Rupee (NRO) account as per the extant regulations.
- f. Onus will be on the non-resident account holder to keep AD bank informed to get the account categorized as NRO account and all such regulations as applicable to NRO account shall be applicable.
- g. The above joint account holder facility may be extended to all types of resident accounts including savings bank account.

While extending this facility the AD bank should satisfy itself about the actual need for such a facility and also obtain the following declaration duly signed by the non-resident account holder:

“I am the joint account holder of SB/FD/RD/Current Account bearing No which stands in my name and in the name of Shri/Smt. who is my (state relationship). I hereby undertake that I shall not use the proceeds lying in the above account for any transaction in contravention of the provisions of the Foreign Exchange Management Act (FEMA) 1999, Rules/Regulations made thereunder and the related circulars/instructions issued by the Reserve Bank from time to time. I further undertake that if any such transaction is put through the said account in contravention of the FEMA, 1999 or Rules/Regulations made thereunder, I shall be held responsible for the same. I shall intimate my bank in the event of any change in my Non-resident / Resident status.”

4) Meeting of Medical expenses of NRI close relatives by Resident Individuals

Where the medical expenses in respect of NRI close relative (NRI as defined in regulation 2(vi) of [Notification No FEMA 5/2000-RB dated May 3, 2000](#), as amended from time to time and relative as defined in Section 6 of the Companies Act, 1956) are paid by a resident individual when the NRI is on a visit to India, such a payment, although being in the nature of a resident to resident transaction, will be covered under the term “services related thereto” under Regulation 2(i) [Notification No. FEMA 16/ 2000- RB dated May 3, 2000](#), *ibid*.

5) Routing of funds raised abroad to India

(a) Indian companies or their AD Category – I banks are not allowed to issue any direct or indirect guarantee or create any contingent liability or offer any security in any form for such borrowings by their overseas holding/ associate/ subsidiary/ group companies except for the purposes explicitly permitted in the relevant Regulations.

(b) Further, funds raised abroad by overseas holding/ associate/ subsidiary/ group companies of Indian companies with support of the Indian companies or their AD Category – I banks as mentioned at (i) above cannot be used in India unless it conforms to the general or specific permission granted under the relevant Regulations.

(c) Indian companies or their AD Category – I banks using or establishing structures which contravene the above shall render themselves liable for penal action as prescribed under FEMA, 1999.

6) Constitution of Special Investigating Team – sharing of information

In pursuance of the Hon'ble Supreme Court Judgment dated July 4, 2011, Government of India constituted a Special Investigation Team (SIT) under the Chairmanship of Hon'ble Justice M.B. Shah. In this regard, the Hon'ble Supreme Court has directed that:

“All organisations, agencies, departments and agents of the State, whether at the level of the Union of India, or the State Government, including but not limited to all statutorily formed individual bodies, and other constitutional bodies extend all the cooperation necessary for the functioning of the Special Investigation Team.

The Union of India and where needed the State Government will facilitate the conduct of the investigations, in their fullest measures, by the Special Investigation Team and functioning, by extending all necessary financial, material, legal, diplomatic and intelligence resources, whether such investigations or portions of such investigations occur inside the country or abroad.” All Authorised Persons are advised to ensure that information/ documents required by the SIT are made available, as and when required.

7) Crystallization of Inoperative Foreign Currency Deposits – Reserve Bank (Depositor Education and Awareness Fund) Scheme, 2014

With the objective of aligning the instructions in respect of foreign currency accounts with the Reserve Bank ([Depositor Education and Awareness Fund\) Scheme, 2014](#), Authorised Dealer banks are required to crystallise, that is, convert the credit balances in any inoperative foreign currency denominated deposit into Indian Rupee, in the manner indicated below:

- (a) In case a foreign currency denominated deposit with a fixed maturity date remains inoperative for a period of three years from the date of maturity of the deposit, at the end of the third year, the authorised bank shall convert the balances lying in the foreign currency denominated deposit into Indian Rupee at the exchange rate prevailing as on that date. Thereafter, the depositor shall be entitled to claim either the said Indian Rupee proceeds and interest

thereon, if any, or the foreign currency equivalent (calculated at the rate prevalent as on the date of payment) of the Indian Rupee proceeds of the original deposit and interest, if any, on such Indian Rupee proceeds.

(b) In case of foreign currency denominated deposit with no fixed maturity period, if the deposit remains inoperative for a period of three years (debit of bank charges not to be reckoned as operation), the authorised bank shall, after giving a three month notice to the depositor at his last known address as available with it, convert the deposit from the foreign currency in which it is denominated to Indian Rupee at the end of the notice period at the prevailing exchange rate. Thereafter, the depositor shall be entitled to claim either the said Indian Rupee proceeds and interest thereon, if any, or the foreign currency equivalent (calculated at the rate prevalent as on the date of payment) of the Indian Rupee proceeds of the original deposit and interest, if any, on such Indian Rupee proceeds.

8) Operational guidelines on International Financial Services Centre (IFSC)

In terms of the Foreign Exchange Management (International Financial Services Centre) Regulations, a financial institution or a branch of a financial institution set up in the IFSC and permitted / recognised as such by the Government or a Regulatory Authority will be treated as person resident outside India. Therefore, their transaction with a person resident in India will be treated as a transaction between a resident and non- resident and shall be subject to the provisions of Foreign Exchange Management Act, 1999 and the Rules/ Regulations/ Directions issued thereunder.

The financial transaction in this context shall mean making or receiving payment, drawing, issuing or negotiating any bills of exchange or promissory note, transferring any security or acknowledging any debt. Similarly, financial service shall mean any activity which a financial institution is permitted to carry on by the respective Act of the Parliament or Government of India or any Regulatory Authority empowered to regulate the concerned financial institution.

9) Regularisation of assets held abroad by a person resident in India under Foreign Exchange Management Act, 1999

To effectively deal with assets held abroad by persons resident in India in violation of the Foreign Exchange Management Act, 1999 (FEMA) for which declarations have

been made and taxes and penalties have been paid under the provisions of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, it is clarified that:

- a) No proceedings shall lie under the Foreign Exchange Management Act, 1999 (FEMA) against the declarant with respect to an asset held abroad for which taxes and penalties under the provisions of Black Money Act have been paid.
- b) No permission under FEMA will be required to dispose of the asset so declared and bring back the proceeds to India through banking channels within 180 days from the date of declaration.
- c) In case the declarant wishes to hold the asset so declared, she/ he may apply to the Reserve Bank of India within 180 days from the date of declaration if such permission is necessary as on date of application. Such applications will be dealt by the Reserve Bank of India as per extant regulations. In case such permission is not granted, the asset will have to be disposed of within 180 days from the date of receipt of the communication from the Reserve Bank conveying refusal of permission or within such extended period as may be permitted by the Reserve Bank and proceeds brought back to India immediately through the banking channel.

Appendix

| SI No | Subject | AP (DIR Series) Circular No | Date |
|-------|---|--------------------------------|--------------------------|
| 1 | Remittances to non-residents – Deduction of Tax at Source: | 151 | 30.06.2014 |
| 2 | Clarification on section 6(4) of FEMA; Repatriation of income and sale proceeds of assets acquired abroad through remittances under Liberalised Remittance Scheme | 37 90 | 19.10.2011 09.01.2014 |
| 3 | Resident bank account maintained by residents in India with NRI close relatives as Joint holders | 87 | 09.01.2014 |
| 4 | Resident individuals meeting medical expenses of NRI close relatives by Resident Individuals | 20 | 16.09.2011 |
| 5 | Routing of funds raised abroad to India | 41 | 25.09.2014 |
| 6 | Sharing of information with Special Investigating Team | 18 | 30.07.2014 |
| 7 | Crystallization of Inoperative Foreign Currency Deposits – Reserve Bank (Depositor Education and Awareness Fund) Scheme | 136 | 28.05.2014 |
| 8 | Operational guidelines on International Financial Services Centre (IFSC) | 92 | 31.03.2015 |
| 9 | Regularisation of assets held abroad by a person resident in India under Foreign Exchange Management Act, 1999 | 18 | 30.09.2015 |